

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

12-cr-44-bbc

v.

CHRISTOPHER JOSE,

Defendant.

Defendant Christopher Jose has filed a notice of appeal from the April 24, 2014, order revoking his supervised release. He also has asked for permission to proceed in forma pauperis on appeal.

As an initial matter, I note that defendant's appeal appears to be untimely and that defendant did not include with his notice a motion for an extension of time to file a notice of appeal supported by a showing of excusable neglect or good cause for the late filing as Fed. R. App. P. 4 requires. However, district courts do not have authority to deny a defendant's request for leave to proceed in forma pauperis on the ground that the appeal is untimely. That authority rests solely with the court of appeals. Sperow v. Melvin, 153 F.3d 780 (7th Cir. 1998). Therefore, I will consider defendant's request for leave to proceed in forma

pauperis on appeal.

According to 28 U.S.C. § 1915(a), a defendant who is found eligible for court-appointed counsel in the district court proceedings may proceed on appeal in forma pauperis without further authorization “unless the district court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled so to proceed.” Defendant had appointed counsel during the criminal proceedings against him and I do not intend to certify that the appeal is not taken in good faith.

ORDER

IT IS ORDERED that defendant Christopher Jose’s request for leave to proceed in forma pauperis on appeal is GRANTED.

Entered this 3d day of September, 2014.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge